



DRA

*Division of Ratepayer Advocates
California Public Utilities Commission*

JOSEPH P. COMO
Acting Director

505 Van Ness Avenue
San Francisco, California 94102
Tel: 415-703-2381
Fax: 415-703-2057

<http://dra.ca.gov>

September 12, 2011

CPUC, Energy Division
Attention: Tariff Files, Room 4005
505 Van Ness, Avenue
San Francisco, CA 94102

Subject: **DIVISION OF RATEPAYER ADVOCATES COMMENTS
ON ALTERNATE DRAFT RESOLUTION E-4335**

The Division of Ratepayer Advocates (“DRA”) submits the following comments to Alternate Draft Resolution E-4405, which approves San Diego Gas and Electric Company’s (“SDG&E”) advice letter (AL) 2118-E-B.

Alternate Draft Resolution E-4405 approves two renewable energy credit (“REC”) purchase and sale agreements between SDG&E and Cabazon and Whitewater Hill Wind Partners, LLC. In contrast to the original Draft Resolution, the Alternate Draft Resolution explicitly finds that the transactions should be found to be “bundled” for RPS compliance purposes.

DRA supports the Alternate Draft Resolution. The RPS Rulemaking (R.) 11-05-005 has recently included much debate among stakeholders regarding bundled and unbundled RPS transactions in the context of the new RPS law, Senate Bill 2 (1x). Despite being in-state, unbundled RECs of the type being purchased here may fall into “Bucket 3” or the product category reserved for unbundled REC purchases. Bucket 3 products are highly limited and, by the third RPS Compliance Period of 2017-2020 are not allowed to constitute more than 10 percent of a retail seller’s RPS portfolio.

DRA has advocated for the designation of unbundled RECs as Bucket 3 resources, even if they are generated in-state. DRA is very concerned that contracts which are unbundled not fall into Bucket 1. That category • intended for in-state bundled products • is unlimited and allowing unbundled RECs into it could encourage speculation and trading involving bundling and unbundling of in-state RECs.

The Alternate Draft Resolution designates the instant transactions as “bundled” because the energy associated with these two wind facilities is already being purchased by SDG&E. DRA supports this designation because the Resolution explicitly states, “This determination is applicable only to this exceptional circumstance and does not set a precedent for future Commission policy.”¹ Like the Resolution, DRA recognizes this as an exceptional and unique circumstance wherein the utility is purchasing both the power and RECs from a facility and is not speculating in unbundling – and then rebundling – RECs. The threat of such speculation and misuse of SB 2(1x)’s Bucket 1 designation is of great concern, so DRA supports the Resolution’s explicit recognition that this instance sets no precedent and that in future instances when a utility believes that a proposed RPS transaction deserves special treatment, that transaction will be judged on its own merits. DRA expects that, within the RPS Rulemaking, a clear set of rules and bucket designations will soon emerge, making this sort of circumstance unlikely to recur.

Please contact Yuliya Shmidt at (415) 703-2719 if you have any questions about these comments.

/s/ Cynthia Walker

Cynthia Walker, Program Manager
Energy Planning and Policy Branch
Division of Ratepayer Advocates

cc: mas@cpuc.ca.gov; jnj@cpuc.ca.gov; mwt@cpuc.ca.gov;
President M. Peevey;
Commissioner T. Simon;
Commissioner K. Sandoval;
Commissioner M. Florio;
Commissioner M. Ferron;
J. Simon, Energy Division; P. Douglas, Energy Division
Director of the Energy Division J. Fitch;
General Counsel F. Lindh;
Chief Administrative Law Judge K. Clopton;
Service List R.11-05-005 and R06-02-012

¹ Alternate Draft Redacted Resolution 4335-E, p.19.